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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON
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8 NATHAN MARQUIS LEBARON,
9 Plaintiff,

10 vs.

11 KIM M. EATON and MARLA
12 PASCAL,

13 Defendants.

NO. CV-09-247-JPH

ORDER DENYING MOTIONS AND FINDING
AN APPEAL WOULD NOT BE TAKEN IN
GOOD FAITH

14 BEFORE THE COURT are Plaintiff's Motion for Recusal (Ct. Rec. 11),
15 Motion for Reconsideration (Ct. Rec. 12), Motion for Appointment of
16 Counsel (Ct. Rec. 13) and Application for the Designation of a
17 Department of the Court or Panel or Other Judge (Ct. Rec. 14), received
18 on October 5, 2009, and noted for hearing without oral argument on
19 October 8, 2009. The Motions were considered on the date signed below.

20 To recuse a judge for bias or prejudice under 28 U.S.C. § 144, the
21 party seeking disqualification must file an affidavit setting forth
22 specific facts and reasons for the belief that bias exists. *Davis v.*
23 *Fendler*, 650 F.2d 1154, 1163 (9th Cir. 1981). Section 144 states that
24 when a party files an affidavit stating the judge has a "personal bias
25 or prejudice" for or against a party, then "such judge shall proceed no
26 further therein, but another judge shall be assigned to hear such
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28 ORDER DENYING MOTIONS AND
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1 proceeding."

2 Plaintiff's request to recuse, however, only avers this judge's
3 impartiality is questionable because he has ruled against Plaintiff in
4 this action and in a prior proceeding, CV-08-240-EFS. Plaintiff's
5 conclusory allegations this judicial officer is engaged in a massive
6 conspiracy against Plaintiff because of Plaintiff's familial religious
7 associations cannot reasonably call into question this Court's
8 impartiality. Therefore, the affidavit does not state grounds for
9 recusal under § 144, and referral to another judge for determination of
10 the merits of the motion is not necessary. *See United States v. Sibla*,
11 624 F.2d 864, 867 (9th Cir. 1980). A motion to disqualify under § 455
12 is decided by the judge himself. *Id.*, at 867-68.

13 For the reasons set forth above and in the Order dismissing this
14 action (Ct. Rec. 9), **IT IS ORDERED** Plaintiff's pending motions (Ct.
15 Recs. 11, 12, and 13) are **DENIED**. The court finds any appeal of the
16 dismissal of this action or this Order would not be taken in good faith.

17 **IT IS SO ORDERED.** The District Court Executive is directed to
18 enter this Order, forward a copy to Plaintiff, and close the file.

19 **DATED** this 21st day of October 2009.

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22 S/ Edward F. Shea
EDWARD F. SHEA
23 UNITED STATES DISTRICT JUDGE
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